

Chapter 5.24

MASSAGE ESTABLISHMENTS

(1213-6/66, 1293-3/67, 2007-10/75, 2187-6/77, Urg. 2361-3/79, Urg. 2394-8/79, 2466-2/81, 2726-10/84, 3173-10/92, 3267-9/95, 3467-6/00, 3694-2/05, 3716-7/05, 3738-7/06, 3844-11/09, 3876-5/10)

Sections:

- 5.24.010 Definitions
- 5.24.020 Massage certification required
- 5.24.030 Massage establishment or services – Business License required
- 5.24.040 Repealed – Ordinance No. 3844-11/09
- 5.24.050 Repealed – Ordinance No. 3844-11/09
- 5.24.060 Repealed – Ordinance No. 3844-11/09
- 5.24.070 Repealed – Ordinance No. 3844-11/09
- 5.24.080 Repealed – Ordinance No. 3267-9/95
- 5.24.090 Repealed – Ordinance No. 3844-11/09
- 5.24.100 Repealed – Ordinance No. 3844-11/09
- 5.24.110 Repealed – Ordinance No. 3844-11/09
- 5.24.120 Repealed – Ordinance No. 2466-2/81
- 5.24.125 Repealed – Ordinance No. 3844-11/09
- 5.24.130 Repealed – Ordinance No. 3844-11/09
- 5.24.140 Repealed – Ordinance No. 3267-9/95
- 5.24.150 Exemptions
- 5.24.160 Massage establishment--Facilities
- 5.24.170 Massage establishment operation
- 5.24.190 Repealed – Ordinance No. 3844-11/09
- 5.24.200 Repealed – Ordinance No. 3844-11/09
- 5.24.210 Repealed – Ordinance No. 3844-11/09
- 5.24.220 Repealed – Ordinance No. 3844-11/09
- 5.24.225 Outcall massages
- 5.24.230 Prohibited conduct
- 5.24.235 Responsibility
- 5.24.240 Violation--Penalty
- 5.24.250 Repealed – Ordinance No. 3844-11/09
- 5.24.260 Repealed – Ordinance No. 3844-11/09
- 5.24.270 Repealed – Ordinance No. 3844-11/09
- 5.24.275 Repealed – Ordinance No. 3844-11/09
- 5.24.280 Repealed – Ordinance No. 2726-10/84
- 5.24.285 Repealed – Ordinance No. 3844-10/84
- 5.24.290 Repealed – Ordinance No. 2726-10/84
- 5.24.300 Repealed – Ordinance No. 2726-10/84
- 5.24.310 Repealed – Ordinance No. 2726-10/84
- 5.24.320 Repealed – Ordinance No. 2726-10/84
- 5.24.330 Repealed – Ordinance No. 2726-10/84
- 5.24.340 Unlawful operation declared nuisance

5.24.010 Definitions. Unless the particular provision or the context otherwise requires, the definitions and provisions contained in this section shall govern the construction, meaning, and application of words and phrases used in this chapter.

- (a) "Massage" or "massage therapy" means any method of pressure on, or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating the external parts of the human body with the hands or with the aid of any mechanical or electrical apparatus or appliance, or with or without supplementary aids such as rubbing alcohol, liniment, antiseptic, oil, powder, cream, ointment, or other similar preparations commonly used in this practice.

- (b) "Massage establishment" means any establishment having a fixed place of business where any individual, firm, association, partnership, corporation, or combination of individuals, engages in, conducts, carries on or permits to be engaged in, conducted or carried on, massages, baths, or health treatments involving massage or baths. (3467-6/00, 3844-11/09)
- (c) "Massage therapist," "bodyworker," "bodywork therapist," or "massage and bodywork therapist" means a person who is certified by the Massage Therapy Organization under Subdivision (c) of Section 4601 of the California Business and Professions Code, and who administers massage for compensation. (2395-11/79, 2466-2/81, 3267-5/95, 3844-11/09)
- (d) "Massage practitioner," "bodywork practitioner," or "massage and bodywork practitioner" means a person who is certified by the Massage Therapy Organization under Subdivision (b) of Section 4601 of the California Business and Professions Code, and who administers massage for compensation. (3267-5/95, 3844-11/09)
- (e) "Organization" means the Massage Therapy Organization created pursuant to Sections 4600-4620 of the California Business and Professions Code. (3267-9/95, 3844-11/09)
- (f) For purposes of this Chapter, the terms "massage" and "bodywork" shall have the same meaning. (3267-9/95, 3467-6/00, 3844-11/09)
- (g) "Owner" means the individual(s) whose name appears on the City of Huntington Beach business license. (3267-9/95)
- (h) "Operator" means the individual who manages the massage establishment. Evidence of management includes but is not limited to evidence that the individual has power to direct or hire and dismiss employees, control hours of operation, create policy or rules or purchase supplies. An operator may also be an owner. (3267-9/95, 3844-11/09)
- (i) "Certified" shall mean any valid certificate issued in accordance with Sections 2600 through 4620 of the California Business and Professions Code. (3267-9/95, 3844-11/09)
- (j) "Compensation" shall mean the payment, loan, advance, donation, contribution, deposit, or gift of money or anything of value. (3267-9/95, 3844-11/09)

5.24.020 Massage certification required. It shall be unlawful for any person, association, partnership, corporation or other entity to engage in, conduct or carry on, permit to engage in, in or upon any premises within the City of Huntington Beach the business of providing massages in exchange for compensation without being currently certified as a massage practitioner or massage therapist by the California Massage Therapy Organization in accordance with Sections 4600 through 4620 of the California Business and Professions Code. Certification by the Massage Therapy Organization must be obtained by March 1, 2010. (2395-11/79, 3267-9/95, 3844-11/09)

5.24.030 Massage establishment or services – Business License Required.

- (a) Any person, association, corporation, partnership or other entity desiring to operate a massage establishment or provide massage services shall apply for a business license and provide the following relevant information: (3267-9/95, 3738-7/06, 3844-11/09)
 - (1) Full name of certificate holder (3844-11/09)
 - (2) Date of Birth (3844-11/09)
 - (3) State issued identification number (if applicable) (3844-11/09)
 - (4) Social Security Number (3844-11/09)
 - (5) Home address and phone number (3844-11/09)
 - (6) Work address and phone number (3844-11/09)
 - (7) Color photograph of the certificate holder (3844-11/09)

- (8) Proof of State certification for those who will provide massage services (3844-11/09)
- (b) Prior to submitting the massage business license application, the fees as established by resolution of the City Council shall be paid to the City of Huntington Beach. (2395-11/79, 3267-9/95, 3844-11/09)
- (c) The application for the massage business license does not authorize operation of a massage establishment or performing massage services until the business license is issued. (3844-11/09)
- (d) It shall be the responsibility of each massage business owner or operator to file copies or provide other evidence of the certificates held by the persons who are providing massage services at the business. (3844-11/09)
- (e) It shall be the responsibility of each massage business owner or operator to notify the City of any intention to rename, change management, or convey the business to another person. (3844-11/09)

5.24.150 Exemptions. Exemptions do not apply to independent contractors of the listed exempted professionals. The provisions of this chapter shall not apply to the following classes of individuals or groups while engaged in or performing the duties of their respective professions: (2395-11/79, 3267-9/95, 3694-2/05, 3844-11/09)

- (a) Physicians, surgeons, chiropractors, osteopaths, acupuncturists, and physical therapists duly licensed to practice in the state of California. (3467-6/00)
- (b) Hospitals, nursing homes, sanitariums, or other health care facilities duly licensed by the state of California, provided that at all times such physicians, surgeons, chiropractors, osteopaths and physical therapists are acting in adherence with the provisions of the state law which govern this field. (3467-6/00)
- (c) Registered or licensed vocational nurses duly registered by the state of California. (3694-2/05)
- (d) Barbershops and beauty parlors, barbers and beauticians but only when engaged in the practice for which they are licensed by the state of California i.e., massage above the neck and shoulders, hands and arms and below the knee. (3694-2/05)
- (e) Accredited high schools and colleges, and coaches and trainers employed therein while acting within the scope of their employment.
- (f) Trainers of any amateur, semi-professional or professional athlete or athletic team. (2395-11/79)
- (g) No employed or independent contractor massage technician may administer massage or otherwise treat or care for patients other than patients of the practitioner and those patients must have been prescribed massage therapy by a practitioner listed in this section prior to the administration of the massage therapy. (3694-2/05)
- (h) Physical Therapist students, and Massage Therapist students earning practical hours for school/education, and who are currently enrolled in a licensed program for Physical Therapy, through a recognized school/education center, can work, under the direct supervision of an exempted professional as defined in this section. Direct supervision means that an exempted professional, as defined in this section, must be present at all times when a student is performing their duties. (3694-2/05)
- (i) Owners of stand alone hotels with more than 100 on-site rooms for rent and which provide massage services for their guests on site by a state certified massage practitioner or therapist. (3876-5/10)

5.24.160 Massage establishment--Facilities. Every massage establishment shall maintain facilities meeting the following requirements:

- (a) Sign - subject to applicable provisions of the City's codes, a recognizable and legible sign shall be posted at the main entrance identifying the business as a massage establishment.
- (b) Lighting - minimum lighting shall be provided in accordance with the Electrical Code adopted by the City and, in addition, at least one artificial light of not less than forty (40) watts shall be provided in each room or enclosure where massage services are performed on patrons and shall be activated at all times while a patron is in such room or enclosure. (3267-9/95, 3694-2/05)
- (c) Equipment - adequate equipment for disinfecting and sterilizing instruments used in performing the acts of massage shall be provided. (3694-2/05)
- (d) Water - hot and cold running water shall be provided at all times. (3694-2/05)
- (e) Linens storage - closed cabinets shall be provided and utilized for storage of clean linens, and approved receptacles shall be provided for the deposit of soiled linen. (2395-11/79, 3267-9/95, 3694-2/05)
- (f) Separation of sexes - if male and female patrons are to be served simultaneously at the massage establishment, a separate massage room or rooms and separate dressing, bathing and toilet facilities shall be provided and utilized for male and female patrons. Each separate facility or room shall be clearly marked as such. (2395-11/79, 3267-9/95, 3694-2/05, 3844-11/09)
- (g) Massage table pads - pads used on massage tables shall be covered in a professional manner with durable, washable plastic or other waterproof material acceptable to Orange County Health Department. (3694-2/05, 3844-11/09)

5.24.170 Massage establishment operation. Every massage establishment shall comply with the following operating requirements:

- (a) (1) Each person employed or acting as a massage therapist or massage practitioner shall have a valid certificate issued by the Massage Therapy Organization, a clearly legible copy of which shall be conspicuously posted in the room or location where massage services will be provided. (2395-11/79, 3267-9/95, 3467-6/00, 3844-11/09)
- (2) It is unlawful for the owner, operator, responsible managing employee, manager or certificate holder in charge of or in control of the massage establishment to employ or permit a person to act as a massage therapist or massage practitioner who does not possess a valid massage therapist or massage practitioner certificate issued by the Massage Therapy Organization. (3467-6/00, 3844-11/09)
- (3) No business, except those exempted under section 5.24.150 herein, may employ anyone to provide massage or allow anyone to massage unless the massage provider possesses a valid massage certificate issued by the Massage Therapy Organization. (3467-6/00, 3694-2/05, 3844-11/09)
- (b) Bath and massage operations shall be carried on and the premises shall be open only between the hours of 7 a.m. and 9 p.m. A massage begun any time before 9 p.m. must nevertheless terminate at 9 p.m. No person, whether certified or not, may provide massage in exchange for compensation after 9:00 p.m. (2395-11/79, 3267-9/95, 3467-6/00, 3844-11/09)
- (c) A list of services shall be posted in an open, public place on the premises, and shall be described in readily understood language. No owner, operator, responsible managing employee, manager, or certificate holder shall permit, and no massage therapist or massage practitioner shall offer to perform any services other than those posted. (3844-11/09)

- (d) Any massage establishment or business shall maintain on its premises evidence for review by local authorities that demonstrates that all persons providing massage services are certified by the Massage Therapy Organization. (2395-11/79, 3267-9/95, 3844-11/09)
- (e) Each massage therapist and massage practitioner shall wear a name tag while administering a massage and which shall be worn on outer clothing and be clearly visible. The massage therapist and massage practitioner shall not use any name other than specified on their certificate while on duty. (3267-9/95, 3844-11/09)
- (f) Massage therapists and massage practitioners shall be fully clothed at all times. Clothing shall be of a fully opaque, non-transparent material and provide the complete covering from mid-thigh to three (3) inches below the collar bone. (3267-9/95, 3844-11/09)
- (g) Areas where massages are to be performed shall be separated by a non-lockable door unless there is no staff available to assure security for clients and massage staff who are behind closed doors. Said door shall not be equipped with a “peep hole” or any other device that allows anyone to see into or out of this room when the door is closed. (3694-2/05, 3844-11/09)
- (h) Towels and linens shall not be used on more than one (1) patron unless they have first been laundered and disinfected. Disposable towels and coverings shall not be used on more than one (1) patron. (2395-11/79, 3267-9/95)
- (i) Wet and dry heat rooms, steam or vapor rooms or cabinets, shower rooms and compartments, toilet rooms and pools shall be thoroughly cleaned and disinfected as needed, and at least once each day the premises are open, with a disinfectant approved by the Health Department. Bathtubs shall be thoroughly cleaned after each use. All walls, ceilings, floors, and other physical facilities for the establishment must be in good repair and maintained in a clean and sanitary condition. (2395-11/79, 3267-9/95)
- (j) Instruments utilized in performing massage shall not be used on more than one (1) patron unless they have been sterilized using approved sterilizing methods. (2395-11/79, 3267-9/95)
- (k) Where a covering is furnished by the massage establishment, it shall not be used by more than one (1) patron until it has first been laundered and disinfected. (2395-11/79, 3267-9/95)
- (l) The owner or operator of the massage establishment shall keep a complete and current list of the names and residence addresses of all massage therapists, massage practitioners and employees of the massage establishment, and the name and residence addresses of the manager or managing employee purported to be principally in charge of the operation of the massage establishment. This roster shall be kept at the premises and be available for inspection by officials charged with enforcement of this chapter. (3267-9/95, 3844-11/09)
- (m) Every massage establishment shall keep a written record of the date and hour of each treatment administered, the name and address of each patron, the name of the massage therapist or massage practitioner administering treatment, and the type of treatment administered, to be recorded on a patron release form. Such written record shall be open to inspection by officials charged with enforcement of this chapter. Such records shall be kept on the premises of the massage establishment for a period of two (2) years. (3267-9/95, 3844-11/09)
- (n) No part of the establishment shall be used for residential or sleeping purposes. (3267-9/95, 3844-11/09)
- (o) No person shall enter, be, or remain in any part of a massage establishment while in the possession of, consuming, or using any alcoholic beverage or drug except a prescription drug. The responsible owner, operator, managing employee, manager or permittee shall not permit any such person to enter or remain upon such premises. (2395-11/79, 3267-9/95, 3844-11/09)

- (p) Every massage establishment shall be open at all times during hours during which massage is being provided for inspection by any officer of the City of Huntington Beach. (2395-11/79, 3267-9/95, 3467-6/00, 3844-11/09)
- (q) All doors leading into a massage establishment or area where massages are being performed shall remain unlocked during business hours unless there is no staff available to assure security for clients and massage staff who are behind closed doors. (2395-11/79, 3267-9/95, 3844-11/09)
- (r) No massage establishment shall simultaneously operate as a school of massage, or share facilities with a school of massage. (2395-11/79, 2466-2/81, 3267-9/95, 3844-11/09)

5.24.225 Outcall Massages. No outcall massage, which is a massage in a private residence or at a location which does not regularly provide or permit massage, shall be conducted in a hotel or motel room, or in the private residence of the certificate holder. No outcall massage may be provided in a private residence or business not regularly providing massage services between 7 p.m. and 8 a.m. (3694-2/05, 3844-11/09)

5.24.230 Prohibited conduct.

- (a) A massage therapist or massage practitioner shall not violate the provisions of Sections 647(a) and (b) of the California Penal Code, or any other state law involving a crime of moral turpitude, and such practices shall not be allowed or permitted by anyone. (2395-11/79, 3267-9/95, 3844-11/09)
- (b) A massage therapist or massage practitioner shall be fully clothed at all times and shall not expose their genitals, pubic area, buttocks, or in the case of female therapists or practitioners, their breasts, and such practices shall not be allowed or permitted by anyone. (2395-11/79, 3267-9/95, 3844-11/09)
- (c) A massage therapist or massage practitioner shall not massage a patron of one sex within the view of a patron of the opposite sex, and such practices shall not be allowed or permitted by anyone unless all parties expressly consent to the treatment, location, and presence of the opposite sex. (2395-11/79, 3267-9/95, 3844-11/09)
 - 1. This subsection shall not apply if all involved patrons are fully clothed, excluding socks or stockings. (3844-11/09)
 - 2. No more than one male and one female may consent to be massaged in the same treatment room, and no more than two members of the same sex may consent to be massaged in the same treatment room. (3844-11/09)
 - 3. No person under the age of 18 may consent to a massage in the presence of another unless the other person is the minor's parent or legal guardian. (3844-11/09)
- (d) A massage therapist or massage practitioner shall not massage, fondle, or otherwise have intentional contact with the genitals or anus of any patron, or the breasts of a female patron and such practices shall not be allowed or permitted by anyone. (2395-11/79, 3267-9/95, 3467-6/00, 3844-11/09)
- (e) A massage therapist or massage practitioner shall not give a massage unless the breasts of female patrons are covered and the genitals of all patrons are covered, and such practices shall not be allowed or permitted by anyone. (2395-11/79, 3267-9/95, 3844-11/09)

5.24.235 Responsibility. The owner or operator of a massage business or establishment shall be responsible for the conduct of all employees or independent contractors working on the premises of the business. (3844-11/09)

5.24.240 Violation--Penalty. Any person violating this chapter shall be guilty of a MISDEMEANOR, punishable by a fine of one-thousand dollars (\$1,000) or by imprisonment in the county jail for a period not to exceed six (6) months, or by both such fine and imprisonment. (2395-11/79, 2726-10/84, 3173-10/92, 3267-9/95, 3467-6/00)

5.24.340 Unlawful operation declared nuisance. Any massage establishment operated, conducted or maintained contrary to the provisions of this chapter shall be and the same is hereby declared to be unlawful and a public nuisance. The City Attorney may, in addition to, or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings for abatement, removal or enjoinder thereof, in the manner provided by law. The City Attorney shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as shall abate or remove such massage establishment and restrain and enjoin any person from operating, conducting or maintaining a massage establishment contrary to the provisions of this chapter. (2395-11/79, 3267-9/95)